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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/721,303      | 11/25/2003  | Rajesh Pendekanti    | ETH 5102 (16032)    | 7062             |

23389 7590 08/07/2007  
SCULLY SCOTT MURPHY & PRESSER, PC  
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GARDEN CITY, NY 11530

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| EXAMINER |
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GIBSON, ROY DEAN

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| ART UNIT | PAPER NUMBER |
|----------|--------------|

3739

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| MAIL DATE | DELIVERY MODE |
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08/07/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/721,303

Applicant(s)

PENDEKANTI ET AL.

Examiner

Roy D. Gibson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 May 2007.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-9, 11-22 and 24-29 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☒ Claim(s) 1-9, 11-20 and 25-29 is/are allowed.  
6) ☒ Claim(s) 21, 22 and 24 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_.

***Entry of Amendment***

Applicant's amendment filed on May 29, 2007 is acknowledged. Claims 1-9, 11-22 and 24-29 are currently pending.

***Prior Rejections or Objections***

The following comments pertain to the rejections or objections in the most recent Office action mailed on Feb. 26, 2007. Rejections under 35 U.S.C. 102 are withdrawn for claims 1-4, 6 and 7, however, rejections to amended claims 21, 22 and 24 are maintained. Therefore, this Office action is made Final.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 21 and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Tsuruta et al. (5,389,098). Tsuruta et al. disclose a stapler head, comprising:

a first jaw including an anvil (4);

a second jaw operatively associated with the first jaw, opposing the first jaw and including a staple driving mechanism (3);

an actuation mechanism (6 and connected parts) associated with movement of the first and second jaws, a distal end of said actuation mechanism

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releasably coupling to a proximal end of the stapler head whereat at least the second jaw thereof is carried; and

a staple holder including a staple supply; wherein the staple holder is removably receivable by the second jaw; the staple supply is actuable by the staple driving mechanism when the staple holder is received by the second jaw; and

a first actuation member (6) responsive to an actuation mechanism for causing a clamping movement of the first and second jaws; and

a second actuation member (7) responsive to the actuation mechanism for controlling the staple driving mechanism to fire the staples (col. 7, line 25-col. 8, line 30).

Claims 21, 22 and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by Mastri et al. (6,032,849). Mastri et al. disclose all elements of the claims (see Figures 1 and 4-6) where the quick disconnect is best seen in Figures 4 and 5 and described in col. 9, line 25-col. 11, line 34 and the other elements are best seen in Figures 7 and 10 described in col. 13, line 48-col. 14, line 53.

Note: the applicant has amended the claim to include "removably receivable by the first jaw" after "anvil in line 2. However, the examiner maintains that it doesn't matter whether the device intends the anvil to be removed or not because there is no specific structure supporting how the anvil is removable. Even if one had to destroy the device to remove the anvil, it is still removable in the broadest meaning of the term. In addition,

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the examiner points out that case law (see MPEP 2144.04, V,C "to made separable"), applies in the case.

***Allowable Subject Matter***

Claims 1-9, 11-20 and 25-29 are allowed.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

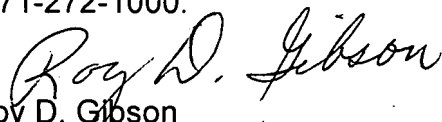
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Roy D. Gibson whose telephone number is 571-272-4767. The examiner can normally be reached on Tu-Th, 7:30 am-4:00 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda Dvorak can be reached on 571-272-4764. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Roy D. Gibson  
Primary Examiner  
Art Unit 3739

August 2, 2007